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AUG 24 2021

CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA.**

FREDERICK O. SILVER.
Plaintiff,

vs.

BLUESTEM BRANDS, INC. D/B/A FINGERHUT /
WEBBANK,
Defendant's.

CASE NO: 21-cv-1918 JRT/DTS

CIVIL COMPLAINT WITH CLAIMS FOR
MONETARY DAMAGES.

JURY TRIAL DEMANDED.

PLAINTIFF 'S COMPLAINT WITH CLAIMS AND JURY TRIAL DEMANDED.

Come Now Frederick O. Silver, who is One of the People of the Great State of Texas and the United States of America, brings this Civil action, for Actual and Statutory Damages seeking Monetary Relief against Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank for Violations of the Law, but not limited to The Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq, as well as for relief from Defamation of Character.

Plaintiff hereby alleges upon personal knowledge and belief as to his own acts, and upon information and belief based on investigation by Plaintiff as to all other matters, as to which allegations Plaintiffs believe substantial evidentiary support exists or will exist after a reasonable opportunity for further investigation and discovery of evidence, as follows:

THE PARTIES.

1. Frederick O. Silver, hereinafter "Plaintiff" is an adult natural person, a Domicile of San Antonio, in the Great State of Texas 78227.
2. Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, hereinafter "Defendants" at

SCANNED

AUG 25 2021

all times relevant hereto, is and was a company engaged in the business of retail sales with an address of 6509 Flying Cloud Drive #200, Eden Prairie, Minnesota 55344. At all times relevant hereto, is and was a company engaged in the business of consumer lending with an address of 215 South State Street, Suite 1000, Salt Lake City, UT 84111.

3. Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, can be served with process of Service by Severing: Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank at 7075 Flying Cloud Dr, Eden Prairie, MN 55344-3532 or 6509 Flying Cloud Drv, Eden Prairie, MN 55344, United States of America.
4. At all relevant times, Defendants acted through its duly Authorized Agents, President, Vice President, Employees, Officers, Members, Directors, Heirs, Successors, Assigns, Secretary, Principals, Trustees, Sureties, Subrogates, Representatives, and Insurers.

JURISDICTION AND VENUE.

5. Jurisdiction of this Court arise under 15 U.S. Code § 1681p, and 28 U.S. Code § 1337
6. This Court has Jurisdiction over the Lawsuit because this Suit involves Federal Question Jurisdiction pursuant to Section 28 U.S. Code § 1331.
7. Venue is Proper in The United States District Court for the District of Minnesota pursuant to 28 U.S. Code § 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claim occurred here and Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, Transacts and Conducts its Business in this Judicial District. Personal Jurisdiction over Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, is Established.

FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. § 1681 et seq.

8. This Civil Action is brought under The Fair Credit Reporting Act, 15 U.S.C. § 1681, is U.S. Federal Government legislation enacted to promote the accuracy, fairness, and privacy of consumer information contained in the files of consumer reporting agencies.

STATEMENTS OF FACTS OR FACTUAL BACKGROUND.

9. Plaintiff has been denied credit several times, Plaintiff deceived to open an Experian credit monitoring account. Plaintiff noticed that his credit reports inaccurately showed that he opened an account with defendants starting in **636992** was said to have written off and/or open accounts with Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank.
10. This alleged account starting in 636992 with Defendant Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, Do Not belong to Plaintiff.
11. Plaintiff alleged account starting in 636992 with Defendants WebBank and Fingerhut was said to have been opened when on 11/22/2019.
12. This alleged account starting in 636992 with Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank. also do not belong to Plaintiff.
13. Accordingly, on or about December 2020, Plaintiff disputed the accuracy of the trade lines of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank directly with Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank.
14. On or about December 2020, Plaintiff disputed the accuracy of the trade lines of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank with Trans Union, Experian and Equifax.
15. Trans Union, Experian, and Equifax each acknowledged receipt of Plaintiff's dispute.
16. In response to Plaintiff's dispute to them, Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, did not correct the inaccuracies within the trade lines of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, and instead notified Plaintiff that these accounts had been "verified."
17. Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, Credit Reporting Agencies, all failed to mark the trade line of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank as "disputed."
18. As of the date of the filing of this Complaint, Defendant Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank and the credit reporting agencies continues to report the

trade line of Defendants inaccurately, and neither Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank has marked this trade line as "disputed."

19. As a result of Defendant's continued inaccurate credit reporting, Plaintiff's credit score has dropped substantially, thereby causing the Plaintiff to be declined for various bank loans from several lenders.

20. As a result of Defendant's continued inaccurate credit reporting, Plaintiff's credit score has dropped substantially, thereby causing the Plaintiff to refrain from applying for additional credit.

21. The Defendants acted with actual malice in willfully continuing to report inaccurate and misleading information on Plaintiff's credit, knowing full well that other creditors were accessing the Plaintiff's credit report, all to the Plaintiff's detriment and loss

22. Aside from the inaccurate and misleading information reported pertaining to the alleged account starting in 636992 of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank, Plaintiff has an excellent credit history.

23. As a result of Defendants' conduct, Plaintiff has suffered actual damages and serious financial harm arising from monetary losses relating to credit denials, loss of use of funds, loss of credit and loan opportunities, excessive and/or elevated interest rate and finance charges, out-of-pocket expenses including but not limited to, local or long telephone calls, postage, faxing and other related costs, all which will continue into the future to Plaintiff's great detriment and loss.

24. As a result of Defendants' conduct, Plaintiff has suffered great physical, emotional and mental pain and anguish, and Plaintiff will continue to suffer the same for an indefinite time into the future, all to Plaintiff's great detriment and loss.

25. As a result of Defendants' conduct, Plaintiff has suffered actual damages in the form of financial and dignitary harm arising from the injury to credit rating and reputation, and Plaintiff will continue to suffer the same for an indefinite time into the future, all to Plaintiff's great detriment and loss.

26. As a result of Defendants' Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank

conduct, Plaintiff has suffered a decreased credit score as a result of the inaccurate information and of multiple inquiries appearing on Plaintiff's credit file.

COUNT I – FCRA

Plaintiff v. Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank.

27. Plaintiff repeats, realleges, and incorporates the averments contained in all the above paragraphs of his Complaint and Claims as though fully set forth herein.

28. At all times pertinent hereto, Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank were "furnishers" within the meaning and context of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq.

29. At all times pertinent hereto, Plaintiff was a "consumer" as that term is defined by 15 U.S.C. §1681a(c).

30. Pursuant to 15U.S.C. §1681n and 15 U.S.C. §1681o, Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank are liable to the Plaintiff for engaging in the following conduct:

31. Willfully and negligently failing to properly and timely delete the inaccurate information from the Plaintiff's credit files despite being provided with proof of its inaccuracy; and

32. Willfully and negligently continuing to furnish and disseminate inaccurate information and derogatory credit account starting in 636992 and other information despite having knowledge of its inaccuracy; and

33. Willfully and negligently failing to comply with the requirements imposed on furnishers of information pursuant to 15 U.S.C §1681s-2(b); and

34. Reporting information with actual knowledge of errors in violation of 15 U.S.C. §1681s-2(a)(1)(A); and

35. Reporting information after notice and confirmation of errors in violation of 15 U.S.C. §1681s-2(a)(1)(B); and

36. Failing to correct and update information in violation of 15 U.S.C. §1681s-2(a)(2)(B); and

37. Failing to provide notice of dispute in violation of 15 U.S.C. §1681s- 2(a)(3); and

38. Failing to conduct an investigation with respect to disputed information in violation of

§1681s-2(a)(8).

39. The conduct of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank was a direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, actual damages and harm to the Plaintiff that are outlined more fully above and, as a result, Defendants are liable to the Plaintiff for the full amount of statutory, actual and punitive damages, and the costs of litigation, as well as such further relief, as may be permitted by law.

WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his favor and against Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank for the following:

- a. Actual damages.
- d. Statutory damages pursuant to 15 U.S.C. §1681n;
- c. Reasonable fees and costs of suit pursuant to 15 U.S.C. §1681o; and
- d. Such addition and further relief as may be appropriate or that the interests of justice require.

COUNT II- DEFAMATION OF CHARACTER.

Plaintiff v. Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank.

40. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

41. Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank have published the inaccurate information through writing to various creditors, prospective credit grantors, individuals, entities, and other credit reporting agencies regarding Plaintiff's credit history.

42. Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank have published the inaccurate information each time a credit report on the Plaintiff has been requested from any creditor, prospective credit grantors, furnisher or other source.

43. The inaccurate information published by Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank is false in that it inaccurately reflects Plaintiff's credit

1 information, and paints Plaintiff in a false financial light.

2 44. Defendants Fingerhut FreshStart/ WebBank have published the inaccurate information to
3 at least every single creditor, furnisher or prospective creditor or other entity that has
4 requested Plaintiff's credit report.

5 45. The falsehoods within the trade lines of Defendants Bluestem Brands, Inc. d/b/a
6 Fingerhut FreshStart/ WebBank constitute falsehoods concerning Plaintiff's credit history.

7 46. Defendants knew or reasonably should have known that the information regarding the
8 trade lines of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank
9 which they have published and re-published on Plaintiff's credit reports are incorrect and
10 false as Plaintiff has notified them of such.

11 47. Defendants continue to publish the false and negative information within the trade lines
12 of Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank on Plaintiff's
13 credit history up through the present time.

14 48. Defendants knew that the information within the trade lines of Defendants Bluestem
15 Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank on Plaintiff's credit report were false
16 and had no factual basis. Defendants nonetheless continued to publish and re-publish the
17 inaccurate information.

18 49. The publications of the information within the trade lines of Defendants Bluestem Brands,
19 Inc. d/b/a Fingerhut FreshStart/ WebBank on Plaintiff's credit report constitute libel per
20 se.

21 50. In addition, and despite the notices from Plaintiff, Defendants have acted with malice by
22 failing to communicate the information provided to them by Plaintiff to all creditors,
23 prospective creditors, furnishers of information and all other entities to whom said
24 Defendants provide credit information concerning the Plaintiff.

25 51. The conduct of Defendants was a direct and proximate cause, as well as a substantial
26 factor, in bringing about the serious injuries, damages and harm to the Plaintiff that are
27 outlined more fully above and, as a result, said Defendants are liable to compensate the
28 Plaintiff for the full amount of actual damages, compensatory damages and punitive

damages, as well as such other relief, permitted under the law.

WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his favor and against the aforementioned Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank for the following:

a. Actual damages;

b. Statutory damages;

c. Punitive damages;

d. An order directing the Defendants Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank immediately and permanently delete all of the inaccurate information from Plaintiff's credit reports and files and cease reporting the inaccurate information to any and all persons and entities to whom they report consumer credit information; and

e. Such addition and further relief as may be appropriate or that the interests of justice require.

WHEREFORE, the Plaintiff pray that the Court enters Judgment against Bluestem Brands, Inc. d/b/a Fingerhut FreshStart/ WebBank.

DEMAND FOR JURY TRIAL and RESERVATION OF RIGHTS.

Plaintiff hereby request a Trial by Jury on all issues raise in this Complaint and Claims pursuant to Rule 38 of the Federal Rules of Civil Procedure and Section 102 of the Civil Rights Act of 1991, 42 U.S.C § 1981a.

Plaintiffs' investigation of the matters alleged herein is ongoing. Pursuant to such investigation and as allowed by the Court, Plaintiffs expressly reserve the right to amend or supplement the claims herein in accordance with Fed.R.Civ.P. 15.

Dated: this 19thDay of August 2021.


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